

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CR2014-001626-002 DT  
CR2013-435124-001 DT

08/05/2015

HON. ROLAND J. STEINLE

CLERK OF THE COURT  
A. Chee  
Deputy

STATE OF ARIZONA

THOMAS M FORSYTH III

v.

BILLY BENJAMIN HAYES JR. (002)

JASON CHRISTOPHER ROSELL  
THOMAS W DEAN

MINUTE ENTRY

10:19 a.m.

Courtroom CCB 1301

State's Attorney:	as stated as above
Defendant's Attorney:	Jason Rosell
Defendant:	Present

Court Reporter, Janell Rose, is present.

A record of the proceeding is also made by audio and/or videotape.

This is the time set for Oral Argument.

LET THE RECORD REFLECT co-defendants, Dana and Damon Nutt, Daniel Estrada; and Patricia Gitre appears for Lisa Posada, counsel for the co-defendant, Daniel Estrada; Patricia Gitre appears for Thomas Gorman, counsel for the co-defendant, Dana Nutt, Patricia Gitre,

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counsel for the co-defendant, Damon Nutt, and Jason Rosell also appears for Thomas Dean in CR2013-435124-001.

The Court is informed that the stay is still in effect the co-defendant Billy Hayes' case in CR2013-435124-001.

Argument is presented.

10:26 a.m. Ms. Lisa Posada, counsel for Daniel Estrada, enters the courtroom.

The Court continues to hear argument.

Ms. Lisa Posada, counsel for Daniel Estrada joins the motions.

The State indicates that the Response has been completed but was not filed in ICIS, so the State will follow-up on that.

The Court continues to hear argument.

The Court will not strike Mr. Rosell's Notice of Defenses.

**For the reasons stated on the record,**

**IT IS ORDERED vacating the Court's prior order for a Special Master.**

**The Court will wait until the Appellate Court has rendered its decisions before ruling.**

**Therefore,**

**IT IS ORDERED taking the motions argued today under advisement.**

Counsel for Dana Nutt, Damon Nutt, and counsel for Daniel Estrada make oral motions for the Defendants to travel out of state.

Defendants: Dana Nutt, Damon Nutt, and Daniel Estrada waive extradition on the record.

There being no objection,

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IT IS ORDERED granting the motions for out of state travel as follows: Dana Nutt, Damon Nutt from 8/6/2015 to 8/20/2015, and Daniel Estrada from 9/18/2015 to 9/21/2015.

The Court directs the parties to submit their respective itineraries, and contact phone numbers to their attorneys.

The Court further directs that within forty-eight hours of re-entry into the State of Arizona the Defendants are required to contact their respect attorneys.

IT IS ORDERED setting Complex Case Management Conference on 10/2/2015 at 8:30 a.m. before this division.

LAST DAY REMAINS: 10/25/2015

10:52 a.m. Matter concludes.

This case is eFiling eligible: <http://www.clerkofcourt.maricopa.gov/efiling/default.asp>. Attorneys are encouraged to review Supreme Court Administrative Order 2011-140 to determine their mandatory participation in eFiling through AZTurboCourt.

**TRIAL MANAGEMENT ORDERS**

IT IS ORDERED that the Joint Pretrial Statement (JPTS) is due in this division by 5:00 p.m., five (5) judicial days before the TMC which was set in the trial setting order or trial, if no TMC is set. The Trial Management Conference shall be heard the morning of trial unless counsel requests an earlier date.

If the State and/or Defense wish to offer Expert evidence, the proponent of the evidence shall provide the name and address, the subject matter on which the expert is expected to testify, a summary of the facts and opinions to which the expert is expected to testify.

Request to extend the deadline set this date must be done pursuant to Rule 15.6(d). Failure to request an extension may result in the preclusion of the evidence.

IT IS FURTHER ORDERED that any disclosure and/or discovery shall be completed no later than seven (7) days prior to trial. Any party seeking further disclosure and/or discovery after the discovery deadline shall seek leave of the Court by motion supported by affidavit to extend the time for disclosure and/or discovery. Parties may extend the deadline by written stipulation which waives any objections to the late disclosure and/or discovery.

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IT IS FURTHER ORDERED with the JPTS, Counsel shall deliver to this division, copies of the following:

- A. A jointly-completed time and witness estimate list. The Court will use the list to predict the length of the trial for the jurors and to direct Counsel to follow the trial time limits established. Any time limitation set will be reasonable presumptive limits subject to modification upon a showing of good cause.
- B. A joint set of agreed-upon preliminary and final jury instructions. This does not include Preliminary Criminal RAJI or Standard Criminal RAJI which the Court will give without request.
- C. Separate sets of requested instructions that have not been agreed upon. Please read *Rosen v. Knaub*, 175 Ariz. 329, 857 P.2d 381 (1993). Proposed voir dire questions which the Court will give.

In jury trial cases the parties shall jointly prepare a brief summary of the case which the Court will read to the jury at the commencement of voir dire.

Any juror notebooks. The Court encourages use of juror notebooks in appropriate cases. Stipulating the contents in evidence is necessary. Key exhibits may be included, along with diagrams, photographs, and timelines.

**MOTIONS IN LIMINE**

Any motions in limine shall be filed thirty (30) days before the TMC is set and such motions must meet the test of *State v. Superior Court*, 108 Ariz. 396, 397, 499 P.2d 152 (1972): "The primary purpose of a motion in limine is to avoid disclosing to the jury prejudicial matters which may compel a mistrial." See also, Ariz. Rules of Evidence, Rule 103(c). A written response to a motion in limine may be filed no later than ten (10) days thereafter. The Court will rule on the motions in limine without oral argument. If the Court wishes to hear argument, the argument will be heard at the morning of trial if no TMC is set. No replies shall be filed.

**PRETRIAL MOTIONS**

All pretrial motions must be filed in writing twenty (20) days before TMC. All motions must comply with Rule 35.1 including setting forth a sufficient factual basis for the motion. Failure to file a sufficient motion may result in the motion being denied without evidentiary

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hearing. See: Rule 16.1[c] Rule 16.2[b]; State v. Londo 215 Ariz. 72 (App.) (2006); State v. Anaya 170 Ariz. 436, 443 (1992); State v. Wilson 164 Ariz. 406, 407 (1990) and State v. Alvarado 121 Ariz. 485 (1979).

#### MARKING EXHIBITS

The trial lawyers or their knowledgeable assistants shall appear in the division assigned by the Master Calendar Judge to present all exhibits. The exhibits will be marked serially as they are listed in the LIST OF EXHIBITS which will be prepared by counsel and downloaded onto a disk which should be given to the clerk. The parties shall advise the division, referring specifically to the pretrial statement, which exhibits may be marked directly in evidence. All exhibits will be clearly marked to correspond with the list provided. Counsel is directed to meet in person to exchange the exhibits before coming to court. Counsel will make sure that they do not bring to the clerk a set of exhibits that include duplicate exhibits. Written stipulations to admit specified exhibits in evidence are encouraged.

The Court will hear and rule upon objections at the TMC. The rulings will be stated on the record, using exhibit numbers. All objections to known exhibits and witnesses must be made before or during the Trial Management Conference or will be deemed to have been waived.

IT IS FURTHER ORDERED that counsel, at the TMC, shall be prepared to discuss:

- A. Time limits in voir dire, opening statements, examination of witnesses and closing arguments.
- B. Stipulations for the foundation and authenticity of exhibits.
- C. Jury instructions (preliminary and final), juror notebooks (Counsel shall bring any proposed jury notebooks to the conference), mini-opening statements and voir dire.
- D. Any special scheduling or equipment issues.

Status of settlement of the case.

#### EXPEDIATED DISCOVERY

If there are any issues as to the disclosure required under Rule 15, the parties shall attempt to resolve the issue under Rule 15.7 (b). After personal consultation the party seeking

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relief shall fax or e-mail a one page letter seeking forth the issue and counsel requested relief.  
The Court will convene a conference to resolve the issue.

LAST DAY CALCULATION

Counsel shall notify the Court within ten (10) days after the minute entry is posted that there are errors in the last day calculation.

Failure to object will be deemed a waiver, see Rule 8.1(c) and rule 8.1(d).